

## **REMARKS**

### **Regarding the Office Action:**

In the Office Action, the Examiner rejected claim 1 under 35 U.S.C. § 112, second paragraph; alleged that the reissue declaration is defective; rejected claims 1-21, 23-25, and 27-36 as being based upon an allegedly defective reissue declaration; and required cross-reference in the specification to copending reissue applications.

### **Status of the Claims:**

In accordance with 37 C.F.R. § 1.173(c), the status of the claims as of the date of this Amendment is as follows: Original patent claim 1 is amended herein. Claims 1-21, 23-25, and 27-36 are pending and under current examination. Since original patent claim 1 has been amended solely to improve technical clarity, and not to change its scope, Applicants submit that there is no need to identify specific support in the original patent. Nevertheless, it is clear from the original patent at, for example, col. 8, lines 10-13, that the “at least one first element” recited in claim 1 forms an intermetallic compound *with* aluminum.

### **Rejection of Claim 1 under 35 U.S.C. § 112, second paragraph:**

The Examiner rejected claim 1 under 35 U.S.C. § 112, second paragraph, as being indefinite because the “claim language is unclear ... and it is not clearly understood how an element can constitute an intermetallic compound.” Office Action, p. 2. Without conceding to the Examiner’s allegations, Applicants have amended claim 1 to clarify that the claimed sputter target includes “at least one first element [constituting] which forms an intermetallic compound [of] with Al” (amendments shown). Claim 1 therefore fully complies with the provisions of 35 U.S.C. § 112, 2nd paragraph, and meets the threshold requirements of clarity and precision. If,

after consideration of the amendments presented herein, the Examiner still has any concerns about the clarity of Applicants' claim language, Applicants respectfully request that the Examiner telephone the undersigned representative to discuss the claim language. Applicants respectfully request withdrawal of the rejection of claim 1.

**Regarding the Reissue Declaration and  
Rejection of Claims 1-21, 23-25, and 27-36 Based on the Reissue Declaration:**

Applicants respectfully request the Examiner's reconsideration and withdrawal of his allegation that the reissue declaration is defective, and the rejection of claims 1-21, 23-25, and 27-36 as being based on an alleged defective reissue declaration. Nevertheless, if the Examiner continues to object to the declaration and to reject the claims, Applicants hereby request that the submission of a supplemental reissue declaration be deferred until allowance of the present application. *See* M.P.E.P. § 1444(I) (noting that "such a request will be considered a complete reply to the rejection"). Applicants will then consider the language suggested by the Examiner at p. 3 of the Office Action.

**Cross-Reference to Copending Reissue Applications:**

On p. 3 of the Office Action, the Examiner required cross-reference in the specification to copending reissue applications. In response, Applicants have amended the specification to insert the Examiner's required paragraph.

**Conclusion:**

In view of the foregoing, Applicants request reconsideration of the application, the original reissue declaration, and withdrawal of the rejections. Pending claims 1-21, 23-25, and 27-36 are in condition for allowance, and Applicants request a favorable action.

If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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By: 

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